

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SPEAKMAN COMPANY, a Delaware corporation,

Plaintiff,

v.

MASCO CORPPRATION, a Delaware corporation, and MASCO CORPORATION OF INDIANA d/b/a DELTA FAUCET COMPANY, an Indiana corporation,

Defendants.

Civil Action No.

COMPLAINT

Plaintiff Speakman Company (“Speakman”), for its complaint against defendants Masco Corporation (“Masco”) and Masco Corporation of Indiana d/b/a/ Delta Faucet Company (“Delta”), alleges as follows:

THE PARTIES

1. Speakman is a corporation organized under the laws of the State of Delaware, having a principal place of business at 400 Anchor Mill Road in New Castle, Delaware, 19720.
2. Masco is a corporation organized under the laws of the State of Delaware, having its registered agent’s address at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801.
3. Delta is a corporation organized under the laws of the State of Indiana, and is a wholly owned subsidiary of Masco having a principal place of business at 55 East 111th Street, Indianapolis, Indiana, 46280, and sells various products in Delaware through retailers, distributors, and resellers, including the products at issue in this action.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1338(a), as it arises under an Act of Congress relating to patents, Title 35, United States Code, §§ 1, *et seq.*

5. This Court has personal jurisdiction over Masco and Delta.

6. Venue properly exists in this judicial district pursuant to 28 U.S.C. § 1391 and § 1400(b).

BACKGROUND

7. On April 30, 2002, U.S. Patent No. 6,378,790 (“the ‘790 patent”), entitled “Shower Head Having a Rubber/Plastic Face Plate and a Diverter Valve Using Rubber Sleeve Back Pressure Activation,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘790 patent is attached as Exhibit A.

8. The ‘790 patent is owned by Speakman Company, with the right to sue for past, present and future infringement and the right to seek injunctive relief and monetary damages.

9. Masco, by itself and through its wholly owned subsidiary Delta, has caused to be imported, manufactured, used, and/or sold, or is presently causing to be imported, manufactured, used, and/or sold, shower heads including shower heads designated as Model Numbers 75250 and 52667 (“the accused products”). The accused products are sold to retailers, distributors and resellers, including but not limited to Amazon.com and The Home Depot, who resell the accused products throughout the United States, including in the State of Delaware.

COUNT I: INFRINGEMENT OF THE ‘790 PATENT

10. Speakman repeats and incorporates by reference each and every allegation of paragraphs 1-9 as if fully set forth herein.

11. The accused products infringe one or more claims of the '790 patent, literally or under the doctrine of equivalents.

12. Masco and Delta are infringing the '790 patent in violation of 35 U.S.C. § 271 by importing, manufacturing, using, selling, and/or offering for sale in the United States, including this judicial district, the accused products without authority.

13. Masco's and Delta's infringement of the '790 patent is exceptional within the meaning of 35 U.S.C. § 285 and justifying treble damages pursuant to 35 U.S.C. § 284.

14. On information and belief, Masco and Delta will continue to infringe the '790 patent, causing damages and immediate and irreparable injury unless and until enjoined by the Court.

15. On information and belief, the infringement by Masco and Delta has and will deprive Speakman of sales, profits, and other related revenue which Speakman would have made or would make in the future, has injured Speakman in other respects, and will cause Speakman added injury and damage, including loss of sales, profits, and other related revenue in the future unless Masco and Delta are enjoined from infringing the '790 patent.

PRAAYER FOR RELIEF

WHEREFORE, Speakman requests that a judgment be entered against Masco and Delta:

- a. Preliminarily and permanently enjoining Masco and Delta, their officers, employees, subsidiaries, agents, attorneys and all persons in active concert with them, from any further infringement of the '790 patent;
- b. Awarding damages, costs and interest to Speakman under 35 U.S.C. § 284;
- c. Awarding up to treble damages upon a finding that infringement has been willful under 35 U.S.C. § 284;

- d. Declaring this case exceptional and awarding Speakman its reasonable attorney's fees, pursuant to 35 U.S.C. § 285; and
- e. Awarding Speakman such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Speakman hereby demands a jury trial on all triable issues presented by count one and Speakman's prayer for relief.

Dated: July 19, 2012

Respectfully submitted,

CONNOLLY BOVE LODGE & HUTZ LLP

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